



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18<sup>TH</sup> STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

September 13, 2006

Ref: 8ENF-UFO

**CERTIFIED MAIL 7004-1350-0001-5668-2857**  
**RETURN RECEIPT REQUESTED**

Stephen Gose, President  
Retamco Operating, Inc.  
HCR Box 1010  
Roberts, Montana 59070

Re: UNDERGROUND INJECTION  
CONTROL PROGRAM (UIC)  
Complaint with Notice of Opportunity  
for Hearing

Dear Mr. Gose:

The enclosed document is a Complaint with Notice of Opportunity for Hearing ("complaint") for violations of the Safe Drinking Water Act ("SDWA"). Please carefully read the complaint soon, since it describes Retamco Operating, Inc.'s ("Retamco's") rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. EPA is enclosing a copy of the Rules of Practice that govern these proceedings, an information sheet about the Small Business Regulatory Enforcement Fairness Act, and a required Public Notice associated with this complaint.

**Retamco is required to take action within 30 calendar days of your receipt of this complaint** to avoid the possibility of having a default judgment entered against Retamco that could impose the penalty amount proposed in the complaint.

Whether or not Retamco requests a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. Retamco may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, Retamco should contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted. Public Notice of EPA's complaint and the opportunity to provide written comments on the complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the complaint has a right to participate in the hearing.

If Retamco has technical questions relating to this matter, the person most knowledgeable on my staff is Nathan Wiser, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6211 or (303) 312-6211. For all legal questions, the person most knowledgeable on my staff is Jim Eppers at 1-800-227-8917 ext. 6893 or (303) 312-6893. Mr. Wiser and Mr. Eppers can also be reached at the following addresses:

Nathan Wiser (Mail Code 8ENF-UFO)  
Environmental Scientist  
U.S. EPA Region 8  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-2466, or

Jim Eppers (Mail Code 8ENF-L)  
Enforcement Attorney  
U.S. EPA Region 8  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-2466.

We urge Retamco's prompt attention to this matter.

Sincerely,

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:

Complaint with Notice of Opportunity for Hearing  
Public Notice  
Small Business Regulatory Enforcement Fairness Act fact sheet  
40 CFR Part 22 Rules of Practice

cc: Elaine Willie, Environmental Coordinator (with all enclosures)  
Ute Indian Tribe  
P.O. Box 460  
Fort Duchesne, Utah 84026

**UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

Docket No. **SDWA-08-2006-0056**

In the Matter of:	)	
	)	
Retamco Operating, Inc.	)	
A Texas Corporation,	)	<b>COMPLAINT WITH NOTICE OF</b>
Respondent.	)	<b>OPPORTUNITY FOR HEARING</b>
	)	<b>(COMPLAINT)</b>
Proceedings under Section 1423(c)	)	
of the Safe Drinking Water Act	)	
42 U.S.C. 300h-2(c)	)	

**INTRODUCTION**

1. This civil administrative enforcement action is authorized by Congress in section 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or the Act). 42 § U.S.C. 300h-2(c). The Environmental Protection Agency (EPA) regulations authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations (40 C.F.R.), and violations of the statute, permits or EPA regulations constitute violations of the Act. The rules for this proceeding are the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits (“Rules of Practice”),” 40 C.F.R. part 22, a copy of which is enclosed.
2. The undersigned EPA official has been properly delegated the authority to issue this Complaint with Notice of Opportunity for Hearing (complaint).
3. EPA alleges that Retamco Operating Inc. (Respondent) has violated the Act and proposes the assessment of a civil penalty, as more fully explained below.

**NOTICE OF OPPORTUNITY FOR A HEARING**

4. Respondent has the right to a public hearing before a presiding officer to disagree with any factual allegation made by EPA in the complaint or the appropriateness of the proposed penalty, or to present the grounds for any legal defense it may have.
5. To disagree with the complaint and assert your right to a hearing, Respondent must file a written answer (and one copy) with the Region 8 Hearing Clerk at the following address:

Region 8 Hearing Clerk

999 18<sup>th</sup> Street; Suite 300 (8RC)  
Denver, Colorado 80202

within 30 calendar days (see 40 C.F. R. §22.15(a)) of receiving this complaint. The answer must clearly admit, deny or explain the factual allegations of the complaint, the grounds for any defense, the facts you may dispute, and your specific request for a public hearing. Please see section 22.15(b) of the Rules of Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN ANSWER AND REQUEST FOR HEARING WITHIN 30 CALENDAR DAYS MAY WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO THE MAXIMUM AUTHORIZED BY THE ACT.**

### QUICK RESOLUTION

6. Respondent may resolve this proceeding at any time by paying the penalty amount proposed in the complaint. Such action to make payment need not contain any response to, or admission of, the allegations in the complaint. Such action to make payment constitutes a waiver of Respondent's right to contest the allegations and to appeal the final order. See section 22.18 of the Rules of Practice for a full explanation of the quick resolution process.

### SETTLEMENT NEGOTIATIONS

7. EPA encourages discussing whether cases can be settled through informal settlement conferences. If you want to pursue the possibility of settling this matter, or have any other questions, contact Jim Eppers, Enforcement Attorney, at [1-800-227-8917; extension 6893 or 303-312-6893] or at the address identified in paragraph 26 herein. **Please note that calling Mr. Eppers or requesting a settlement conference does NOT delay the running of the 30 day period for filing an answer and requesting a hearing.**

### GENERAL ALLEGATIONS

The following general allegations apply to all times relevant to this action, and to each count of this complaint:

8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147 subpart TT, section 147.2253, EPA administers the Underground Injection Control (UIC) program for Class II wells in Indian country within the State of Utah. The effective date of the program is November 25, 1988. The program requirements are located at 40 C.F.R. parts 124, 144, 146, 147, and 148.

9. Class II underground injection wells under the jurisdiction of the EPA are authorized to operate either under an EPA-issued permit or under a rule. To be eligible to operate under rule-authorization, a UIC well must be a Class II enhanced oil recovery well and must have been such a well at the time the EPA UIC program became effective. All other Class II wells must be authorized by an EPA-issued permit. Salt water disposal wells are wells that inject water produced to the surface from other oil or gas production wells.
10. The well subject to this action is a Class II salt water disposal well. This well is authorized under a permit issued by the EPA. This well is operated by Respondent and is located in Uintah County, Utah, within the exterior boundary of the Uintah & Ouray Indian Reservation. The specific well and its location is:

Dirty Devil Unit #14-10 well  
EPA Permit #UT20519-02118  
T9S, R24E, Section 10, NW/4, SW/4, SW/4.

EPA originally issued a permit for this well, effective date of July 25, 1990. The permit was originally permitted by EPA to a different operator. Effective February 1, 2003, Respondent purchased this well. On February 24, 2004, EPA received a permit transfer request. In July 2004, EPA received the financial documents related to the final plugging and abandonment requirements for this well, thus completing the requirements to transfer the permit.

11. The UIC permit at parts II (D)(1) through (4) and the regulations at 40 C.F.R. §146.23(c) require that Respondent must annually by February 15 submit a report of the previous year's monitored and recorded information. At a minimum, this report must contain recorded observations of injection pressure, annulus pressure, flow rate, and cumulative injection volume, which report is known as an "annual monitoring report." Each year, prior to this due date, EPA has sent a courtesy reminder letter to all Class II well operators, including Respondent, reminding operators of the obligation to timely submit this annual monitoring report.
12. For the 2004 and 2005 reporting years, the annual monitoring report was due by February 15 of the year following each reporting year. EPA did not receive the 2004 and 2005 annual monitoring reports until April 15, 2005, and March 23, 2006, respectively. These are violations. See Attachment A to this complaint where these violations are summarized and labeled with the letter "A."
13. The UIC permit at parts II (D)(1) through (4) and the regulations at 40 C.F.R. §146.23(c) require that Respondent must annually by February 15 submit the analytical results of a fluid sample collected in the previous reporting year which is representative of the injected fluid and analyzed, at least, for pH, specific conductivity, specific gravity and total dissolved solids, which report is known as an "annual fluid analysis." Each year, prior to this due date, EPA has sent a courtesy reminder letter to all Class II well

operators, including Respondent, reminding operators of the obligation to timely submit this annual fluid analysis.

14. For the 2004 and 2005 reporting years, the annual fluid analysis was required to be submitted by February 15 of the year following each reporting year. EPA did not receive the 2004 and 2005 fluid analyses until May 13, 2005, and March 23, 2006, respectively. The 2005 fluid analysis failed to contain a reported value of specific gravity. These are violations. See Attachment A to this complaint where this violation is summarized and labeled with the letter "B."
15. Respondent is incorporated in the State of Texas and is authorized to do business in the State of Utah. Respondent's principal office address is 8601 U.S. Hwy 212, Roberts, Montana 59070.
16. Respondent is a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12).
17. The 2,630 feet deep well which is the subject of this complaint penetrates known or possible underground sources of drinking water (USDWs) including, but not limited to, groundwater in the near-surface alluvium sands at a depth of approximately 400 feet below ground surface
18. A summary list of the violations alleged is included as Attachment A and is incorporated into this complaint.

#### **COUNT 1**

19. Respondent is in violation the UIC permit at parts II (D)(1) through (4) and the regulations at 40 C.F.R. §146.23(c) by failing to timely report monitored and recorded observations of injection pressure, annulus pressure, flow rate, and cumulative injection volume for the well referenced in paragraph 10. The duration of the Respondent's violation is shown in detail in Attachment A, with each such violation labeled with the letter "A."

#### **COUNT 2**

20. Respondent is in violation of the UIC permit at parts II (D)(1) through (4) and the regulations at 40 C.F.R. §146.23(c) by failing to timely submit analytical results of a fluid sample collected analyzed, at least, for pH, specific conductivity, specific gravity and total dissolved solids for the well referenced in paragraph 10. The duration of the Respondent's violation is shown in detail in Attachment A, with each such violation labeled with the letter "B."

## PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

21. The Act, as amended, authorizes the assessment of a civil penalty of up to \$32,500.00 per day, 42 U.S.C. § 300h-2(b). The Act requires EPA to take into account the following factors in assessing a civil penalty: the seriousness of the violation, the economic benefit resulting from the violation, Respondent's prior compliance history of such violation, any good-faith efforts to comply, the economic impact on Respondent, and other factors that justice may require. 42 U.S.C. §300h-2(c)(4)(B).
22. In light of the statutory factors and the specific facts of this case, EPA calculates and proposes that **Respondent pay a total penalty of \$3,053.00 (three thousand fifty-three dollars)** for the violations alleged above, as explained below:

### Seriousness of the Violations

The UIC program is heavily reliant upon accurate and representative self-reporting. Since there are so many injection wells in the country, regulators depend on well operators to abide by their self-monitoring and self-reporting requirements. Given the use of the injected wastewater's density in calculating a maximum allowable injection pressure limit, a well may be injecting at a pressure, which although compliant with the injection pressure limit measured at the surface pressure monitoring gauge, may be causing fracturing in the receiving injection zone. It is for this reason that EPA needs to know the specific gravity of the injected wastewater. Fracturing in the injection zone can lead to fluid migrating into a USDW. Furthermore, it confirms that the wastewater is, in fact, oil field brine, permissible for injection under the regulations and UIC permit conditions. Similarly, EPA is reliant upon accurate reports of an injection well's operational history, including the measured injection and annulus pressure, and rates and total volumes injected. There are, for instance, rate and injection pressure limits in the permit for this well.

### Economic Benefit

For Counts 1 and 2, Respondent enjoyed an economic benefit by not timely committing expenditures to be in compliance. For Count 1, Respondent delayed the cost of reporting information for its well for a combined total of about three months. For Count 2, Respondent delayed the cost for the reporting information for a combined total of about four months, and currently enjoys the continued delay in reporting the specific gravity value due in 2006. The total economic benefit Respondent has enjoyed is estimated by EPA to be \$53.00 (fifty-three dollars).

### Prior Compliance History

EPA Region 8 has taken no prior formal enforcement actions against Respondent for violations of the UIC program regulations. EPA made no upward adjustments to the proposed penalty based on this factor.

### Good-Faith Efforts to Comply

EPA sent to Respondent annual courtesy reminder letters regarding its annual reporting requirements each year since Respondent purchased the well. EPA also sent notices of violation after it discovered that Respondent had not timely and/or completely complied with its reporting obligations. In this case, EPA sent a notice of violation dated April 8, 2005, regarding the overdue 2004 annual monitoring report and fluid analysis. EPA similarly sent a notice of violation dated March 8, 2006, regarding the overdue 2005 annual monitoring report and fluid analysis. Respondent has had access to this well since it purchased the well in 2003. Respondent has or should have all the monitoring data required to make the obligatory reports to EPA. EPA is not aware of any reason why Respondent failed to be timely in making its reports and has no knowledge that anyone is interfering with this control. EPA considers that Respondent has not made a good faith effort to comply. EPA made no adjustments to the proposed penalty due to this factor, but will consider any information Respondent may present regarding this factor.

### Economic impact on the violator

EPA did not reduce the proposed penalty due to this factor, but will consider any new information Respondent may present regarding this factor.

### Other Matters that Justice may Require

EPA has made no additional adjustments to the penalty due to this factor.

23. Respondent's payment of the penalty shall be made by money order or certified check made payable to "Treasurer, United States of America" and mailed to the following address:

EPA - Region 8  
Regional Hearing Clerk  
P.O. Box 360859  
Pittsburgh, Pennsylvania 15251.

A copy of said check shall be mailed to the following address:



Jim Eppers (8ENF-L)  
Enforcement Attorney  
U.S. EPA - Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466.

24. The provisions of this complaint shall apply to and be binding upon Respondent, its officers, directors, agents, servants, employees, and successors or assigns.
25. As required by the Act, prior to the assessment of a civil penalty, EPA will provide public notice of the proposed penalty, and reasonable opportunity for people to comment on the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 300h-2(c)(3)(B).
26. The presiding officer is not bound by EPA's penalty policy or the penalty proposed by EPA, and may assess a penalty above the proposed amount, up to US\$32,500.00, per day for each violation, as authorized in the statute, as amended.
27. This complaint does not constitute a waiver, suspension, or modification of the requirements of any applicable provision of the Act or the UIC regulations implementing the Act, which remain in full force and effect. Issuance of this complaint is not an election by the EPA to forego any civil or any criminal action otherwise authorized under the Act.

Issued this 12<sup>TH</sup> day of September, 2006.

**SIGNED**

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Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance,  
and Environmental Justice  
U.S. EPA, Region 8  
999 18th Street, Suite 300  
Denver, CO 80202-2466

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON SEPTEMBER 13, 2006.**